HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.23034 of 2006

Dated:08.11.2006

Between:

Puram Prabhakar and others.

…Petitioner

and

The Joint Collector and others.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.23034 of 2006

ORDER:

The petitioners herein approached the Mandal Revenue Officer (MRO) on 06.08.2002 requesting correction of entries in the record of rights in respect of lands in Survey Nos.331, 332, 341 and 342 situated at Kallakal Village of Toopran Mandal in Medak District. By an order dated 11.09.2002 the second respondent ordered correction in the record of rights showing the land in favour of the petitioners. Aggrieved by the same, the third respondent preferred a revision petition under Section 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971. The first respondent set aside the order of the MRO only on the ground that the MRO did not issue notice to the third respondent before passing the order correcting the entries. The order of the Joint Collector is assailed in the Writ Petition.

Learned Counsel for the petitioners submits that when the order of the MRO was faulted on the ground of violation of natural justice, the Joint Collector ought to have remanded the matter to the MRO for *de novo* enquiry. The learned Counsel for the third respondent (caveator) opposes the Writ Petition contending that the petitioners approached the MRO making false allegations that the third respondent sold the property, and that the MRO passed orders based on the report of the

Mandal Surveyor without issuing notice to the third respondent. He therefore, pleads that the order of the MRO dated 11.09.2002 is unsustainable and the same cannot be revived now.

By the impugned order, the Joint Collector has set aside the proceedings of the MRO, dated 11.09.2002, only on the ground that notice was not issued to the third respondent. If when an order is found to be illegal or found to be suffering from impropriety of not issuing a notice, the appellate authority or the revisional authority should ordinarily set aside the order with such infirmity and remand the matter to the original authority. Even while exercising the power of judicial review, this Court adopts this method, so that the order impugned which is rendered void does not give any benefit to the person who got the order initially and also does not affect the rights of the aggrieved person. Keeping this in view, this Court is not inclined to quash the order of the Joint Collector as prayed. However, this Court modifies the order of the Joint Collector to the effect that after setting aside the order of the MRO, the matter shall stand remitted to the MRO, Toopran. He is directed to issue notice to the petitioners and the third respondent and conduct enquiry while considering all the objections raised by the third respondent including the ground that he never sold the property to the petitioners.

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

08.11.2006
vs